

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 JOSHUA D. LAMBERT,

11 Plaintiff,

12 v.

13 XLOMARA HUERTAS et al.,

14 Defendants.

CASE NO. 3:19-cv-05980-RJB-JRC

ORDER

15  
16 Plaintiff, proceeding *in forma pauperis*, filed this civil rights complaint pursuant to 42  
17 U.S.C. § 1983. Presently before the Court are two motions filed by plaintiff: (1) motion for  
18 extension (Dkt. 28) and (2) motion to amend complaint (Dkt. 30). The Court will address  
19 defendants' Ray Hendrickson, Xlomara Heurtas, Natasha House, Rhana Kahn, State of  
20 Washington, and Western State Hospital ("WSH defendants") motion to dismiss (Dkt. 24) in a  
21 separate report and recommendation.  
22  
23  
24

1           **1. Motion for Extension (Dkt. 28)**

2           On December 23, 2019, the Court ordered plaintiff to provide the complete names and  
3 addresses for all doe defendants by January 17, 2020. Dkt. 21. Plaintiff now requests a 60-day  
4 extension to provide the names and addresses of the doe defendants. Dkt. 28. Plaintiff states that  
5 he needs to conduct discovery in order to obtain more information on the doe defendants. Dkt.  
6 28. A plaintiff may be given an opportunity after filing a lawsuit to discover the identity of  
7 unknown defendants through discovery. *See Gillespie v. Civiletti*, 629 F.2d 637, 642 (9th Cir.  
8 1980).

9           Having reviewed plaintiff's motion for extension, the Court finds that plaintiff has stated  
10 good cause for a 60-day extension. Accordingly, plaintiff's motion for extension (Dkt. 28) is  
11 granted, and plaintiff is ordered to provide the names and addresses of the doe defendants on or  
12 before April 20, 2020.

13           If plaintiff is unable to provide the Court with names and addresses of doe defendants on  
14 or before April 20, 2020, the Court will recommend dismissal of the unserved defendants from  
15 the case without prejudice.

16           **2. Motion to Amend (Dkt. 30)**

17           Plaintiff seeks to amend his complaint in response to the WSH defendants' motion to  
18 dismiss. Dkt. 30. Under Rule 15(a) of the Federal Rules of Civil Procedure,

19           (1) ***Amending as a Matter of Course***

20           A party may amend its pleading once as a matter of course within:

21           (A) 21 days after serving it, or

22           (B) if the pleading is one to which a responsive pleading is required,  
23           21 days after service of a responsive pleading or 21 days after service  
24           of a motion under Rule 12(b), (e), or (f), whichever is earlier.

25           (2) ***Other Amendments***

          In all other cases, a party may amend its pleading only with the  
opposing party's written consent or the court's leave. The court  
should freely give leave when justice so requires

1           On December 30, 2019, the WSH defendants filed a motion to dismiss and defendants  
2 Lee Stemler, Tuggle, and Jack Warner filed an answer. Dkt. 23, 24. Plaintiff filed his motion to  
3 amend on January 18, 2020, which was within 21 days of the filing of the defendants' responsive  
4 pleadings. Dkt. 30. Having reviewed plaintiff's motion to amend, with no opposition from  
5 defendants, *see* Dkt. 36 (WSH defendants' response), the Court grants plaintiff's motion to  
6 amend, Dkt. 30. The Clerk is directed to docket the attached proposed amended complaint, Dkt.  
7 30-1, as plaintiff's first amended complaint.  
8

9           Dated this 26th day of February, 2020.

10           

11           J. Richard Creatura  
12           United States Magistrate Judge  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24